

Delaware's Criminal Nuisance Abatement Act

Delaware Code, Ch. 71

<http://delcode.delaware.gov/title10/co71/index.shtml>

I. What is a “criminal nuisance”?

- In Delaware, the presence of illegal drug activity, illegal guns, criminal gang activity, violent felonies (including rape, murder, and high-level assaults), prostitution, and other similar disturbances may constitute a “criminal nuisance” on a property.
- To trigger the enforcement of this Act, typically, one of the above crimes must have occurred on the property within the past year, and this crime must be coupled with a demonstrable “adverse impact” upon the community.
- An “adverse impact” can be characterized by excessive calls to law enforcement, the execution of a search warrant, increased fear of residents, diminished property value, an increased number of housing or health code violations, or other similar negative effects.

II. What is the purpose of the Criminal Nuisance Abatement Act?

- Eliminate locations that attract criminals, violence, or the threat of violence, in which residents live in fear.
- Encourage property owners, including rental property owners, to take affirmative steps to prevent and respond to crimes on their properties.

III. If the Delaware Department of Justice finds that a property constitutes a criminal nuisance, how does it seek to “abate” or extinguish that nuisance?

- Contact the property owner and request his/her cooperation in stopping the nuisance.
 - If the property is a rental property, the Department will invite the property owner to attend a FREE, State-led training to learn the best techniques to screen for law-abiding tenants, identify potential drug or gang crime on the rental property, deter criminal activity through environmental design, and lawfully evict problem tenants.
- If the property owner fails to cooperate and/or eliminate the nuisance, the Delaware Department of Justice can file a civil lawsuit against the property owner for “abatement relief.”
 - 10 days after filing the lawsuit, the Superior Court may hold an immediate hearing.
 - If the Judge finds a criminal nuisance that threatens the health, safety, and welfare of the community, the Judge will order an immediate closure of the property and prohibit the owner and/or tenants from entering the property until the final hearing on this matter.
 - The Superior Court will later hold a final permanent abatement hearing.
 - At the end of this hearing, the Court will take the action necessary to eliminate the criminal nuisance, which may include but is not limited to suspending or revoking a lease, suspending or revoking a rental license, imposing a minimum \$25,000 fine and/or transferring ownership of the property from the owner.

If you would like to report a possible criminal nuisance in your community, please contact the Criminal Division of the Delaware Department of Justice at 302-577-8500 and ask to speak with a member of the Nuisance Abatement Team.